



SUPPLEMENTAL

TO: District Board of Zoning Adjustment
FROM: Jennifer Steingasser, Deputy Director Development Review & Historic Preservation
DATE: June 8, 2010
SUBJECT: BZA Application 18060 – Supplemental Remarks on § 401.4 and Economic Hardship

BACKGROUND

On May 18, 2010, the Board of Zoning Adjustment (BZA) considered the Applicant's proposal to subdivide a conforming lot to construct two semi-detached dwellings, each of which would require relief from the minimum lot area and width (§ 401.3). At the hearing, the Board asked OP to comment further in a supplemental submission regarding the applicability of § 401.4, and also provided an opportunity for OP to comment on the Applicant's claim of economic hardship.

FINDINGS

Section 401.4

The Board asked OP to examine the Applicant's relief requests in light of § 401.4, which provides an exception to § 401.3. Section 401.4 provides the following:

In the case of an unimproved plot of ground in single ownership on November 1, 1957, that has a lot area or width of lot less than two hundred percent (200%) of that prescribed in § 401.3 or the district in which it is located and that does not adjoin another unimproved plot of ground in the same ownership, two structures may be erected on the lot; provided, that each structure shall be erected on a lot that complies with eighty percent (80%) of both the required lot area and width of lot specified in § 401.3; and provided further, that each structure shall comply with all other provisions of this title.

The record is silent on whether the unimproved Lots 83 and 84 (prior to a recent consolidation into Lot 160) were in single ownership on November 1, 1957, and as such OP is unable to say whether this threshold showing has been satisfied. Irrespective of such a showing, OP's analysis of the remaining elements demonstrates that § 401.4 is not applicable.

	Restriction (§ 401.3)	Existing	Requirements per §401.4 (for subdivision)	80% of required for each subdivided lot	Proposed by subdivision for each subdivided lot	Variation from § 401.4
Lot area	3,000 sq. ft. min.	4,625 sq. ft.	200% = 6,000 sq. ft.	2,400 sq. ft	2,312.5 sq. ft.	- 87.5 sq. ft.
Lot width	30' min.	50'	200% = 60'	24'	25'	+1'



The existing Lot 160 has a lot area and width of less than 200% of that prescribed in § 401.3. Under the Applicant's subdivision proposal, the lot width for each lot also would comply with the 80% requirement of § 401.4. However, the lot area for each lot would not satisfy the 80% threshold. Even assuming that the Zoning Administrator could grant a 2% deviation (pursuant to § 407.1) from the § 401.4 lot area standard, the subdivided lots would still be too small in size to take advantage of the § 401.4 exception.¹ Since the lot must comply with eighty percent (80%) of *both* the required lot area and width specified in § 401.3, the § 401.4 exception is not applicable. As a result, the Applicant must seek variance relief from the minimum lot area and width requirements of § 401.3.

Economic Hardship

The Applicant submitted additional information on May 25, 2010 to support the claim of economic hardship that would result if the Property was developed in conformance with the R-2 zoning. To that end, the Applicant provided certain comparable listings in the area. The Applicant also provided further explanation of her sunk costs to date. Based on the information provided, OP is not able to provide additional analysis regarding the Applicant's economic argument.

¹ OP estimates that the lots would still be approximately 40 square feet in lot area too small.